

City of Portland

Bureau of Development Services

Land Use Services Division

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FAX: 503-823-5630 www.portlandonline.com/bds

Date: July 11, 2008

To: Interested Person

From: Matt Wickstrom, Land Use Services

503-823-7840 / WickstromM@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-130534 AD

GENERAL INFORMATION

Applicant: Richard E Brown

239 NW 13th Ave Portland, OR 97209

Owners: Lisa and Garin Bougie

1727 NW 33rd Ave Portland, OR 97210

Site Address: 1727 NW 33RD AVE

Legal Description: LOT 2 BLOCK 27, WILLAMETTE HTS ADD

Tax Account No.: R913404080 **State ID No.:** 1N1E29CD 12000

Quarter Section: 2825

Neighborhood: Northwest District, contact John Bradley at 503-227-7484

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

Plan District: Northwest Hills - Forest Park

Zoning: R5 (Residential 5,000)

Case Type: AD (3 Adjustments)

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee.

Proposal:

The applicant requests three Adjustments associated with plans to construct a single-car detached garage in front of an existing house on NW 33rd Avenue. In the R5 zone, the Portland Zoning Code requires buildings to be set back 10 feet front the front property line and garage entrances to be set back 18 feet from the street (front) property line. Submitted plans show that the detached garage and garage entrance are proposed to be set back 5 feet from the NW 33rd Avenue property line. The Zoning Code also states that a garage wall that faces a street

may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. Submitted plans show that the front of the garage is proposed to be 26 feet in front of the longest street-facing wall of the house. As part of this land use review, the applicant requests three Adjustments; the first to decrease the front setback for the detached garage from 10 feet to 5 feet; the second to decrease the garage entrance setback from 18 feet to 5 feet and the third to allow the garage to be located approximately 26 feet in front of the longest street-facing wall of the house.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A-F, Adjustments.

ANALYSIS

Site and Vicinity: The 5,500 square foot site is developed with a single-dwelling residence which currently provides no on-site parking. The surrounding vicinity is developed with large single-dwelling residences on similarly sized or larger lots. An entry area to Forest Park is located about 2 blocks from the site.

Zoning: The site is zone R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **June 12, 2008**. The following Bureaus have responded:

- The Bureau of Environmental Services responded with information on sanitary services, stormwater management and water resources. The response states that stormwater generated from the proposed development must meet the requirements of the City of Portland's Stormwater Management Manual at the time of building plan review. The response also states no objections to the proposed Adjustments (Exhibit E-1).
- The Site Development Section of BDS responded with no objection to the proposed Adjustments. The response states that Site Development does not recommend on-site infiltration of stormwater at this location and states that the proposed development should be designed to incorporate the green roof system with an overflow to the public sewer system (Exhibit E-2).
- The Development Review Section of Portland Transportation (PDOT) reviewed the proposal for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33 (Portland Zoning Code), Title 17 (Public Improvements), and for potential impacts upon transportation services. The PDOT respondent stated no objections to the proposal (Exhibit E-3).
- The Fire, Parks and Water Bureaus responded with no concerns (Exhibit E-4).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 12, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.805.10 Purpose of Adjustments

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the code's regulations would preclude

all use of the site. Adjustment reviews provide flexibility for unusual situations and to allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.40 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below are met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant requests three Adjustments associated with plans to construct a detached garage on this site with an existing house. The requested Adjustments relate to the front and side setback standards of the Zoning Code and a regulation which does not allow garages to be located in front of the longest street-facing walls of dwelling units. The purpose of the setback and garage regulations are listed below:

Purpose 33.110.220 Setbacks

The setback regulations for buildings and garage entrances serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- The provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.

Purpose 33.110.253 Garages

These standards:

- Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
- Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
- Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and
- Enhance public safety by preventing garages from blocking views of the street from inside the residence.

Adjustments 1 and 2 - Front and Garage Entrance Setbacks

The applicant requests to reduce the minimum front building setback for the detached garage from 10 feet to 5 feet and the garage entrance setback from 18 feet to 5 feet. The applicant provided documentation showing that the residential lots to the north and south of the site both have single-car detached garages which are located in front of the houses with front setbacks of less than 10 feet and garage entrance setbacks of much less than 18 feet. In addition, the documentation also shows similar situations for the residential lot to the rear of the site and for three lots on the opposite side of NW 33rd Avenue. Based on this information, the proposed location of the garage within the front setback and with a reduced garage entrance setback is compatible with the neighborhood and reflects the general building scale and placement of structures in the vicinity. Furthermore, the Zoning Code allows detached garages to be located with reduced front and garage entrance setbacks on lots with at least a

20 percent slope. The site has a 19 percent slope and therefore almost meets the exception which would allow the reduced setbacks proposed by right. As the proposed garage is one-story in height and located adjacent to the neighbor's detached garage, it will not negatively impact the availability of light, air or privacy. As for fire protection and fire access, both the Life Safety and the Fire Bureau reviewers examined the proposal and replied with no concerns. The single-car width of the garage still allows for a large amount of the front yard to be landscaped, similar to the existing situation since a shed is currently located where the garage is proposed. The PDOT reviewer responded that the proposed garage entrance setback of "5 feet from the property line, coupled with the existing 7.5 feet between the curb and property line, will not provide enough distance between the garage face and the curbline for a vehicle to attempt to park in front of the garage and block the existing sidewalk". In other words, although the reduced garage entrance setback does not provide enough room for a vehicle to park in front of the garage, the setback is reduced to the point where a driver would not attempt to park a car in the driveway as to block the sidewalk. Based on this information, this criterion is met.

Adjustment 3 – Garages, Street lot line setbacks

The applicant requests for the garage to be located 26 feet in front of the longest street-facing wall of the dwelling unit. A photo provided by the applicant shows that a shed is currently located in front of the house where the detached garage is proposed. As the shed does not compromise the physical or visual connection between the living area of the house and the street, it can be assumed that the garage will have no different impact. Furthermore, the single-car width of the garage helps to ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage. Due to the slope of the lot and the single-car width of the proposed garage, it will not obscure views of the main entrance and will not obscure views of the street from the residence. The garage is well-designed with windows in the door which match those in the street-facing French doors of the house; this helps to provide a more pleasant pedestrian experience. Based on this information, this criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The proposal to reduce the front and garage entrance setback for the single-car garage and to allow it to be located 26 feet in front of the longest street-facing wall of the dwelling unit will not detract from the livability or appearance of the residential area. The reduced setbacks for the proposed garage are consistent with those of other garages in the vicinity. These other garages are also located in front of the longest street-facing walls of those respective dwelling units without compromising livability or appearance. Furthermore, it is important to note that if the site had a 20 percent slope, rather than its 19 percent slope, the applicant's proposal would be allowed by right and no land use review would be necessary. The existing shed in front of the house on the site is not particularly attractive; as the garage is well-designed with windows in the garage door which complement the existing windows in the French doors of the house, its appearance can be considered an improvement. Based on this information, this criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: The purpose of the R5 zone (and all single-dwelling zones) is to preserve land for housing and to provide housing opportunities for individual households. The three requested Adjustments will not compromise the ability of the site to provide housing for individual households. Other very similar situations are present on nearby lots and those houses are still able to provide housing for individual households. This criterion is met.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: No impacts are expected to result from the requested Adjustments. As mentioned previously, many other lots in the vicinity have detached garages located within 5 feet of the front (street) property line. Furthermore, the Zoning Code would allow the proposed location of the garage by right if the site had a 20 percent slope as opposed to a 19 percent slope. The location of the planned terrace on top of the detached garage is outside of the front and side setbacks and therefore is allowed by right and cannot be evaluated as part of this review. Based on this information, this criterion is met.

- **D.** City designated scenic resources and historic resources are preserved; and
- **F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

Findings: The site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criterion are not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant proposes three Adjustments associated with plans to construct a single-car garage in front of the existing house and located 5 feet from the front (street) property line. As noted in this report, the proposal is able to meet the Adjustment Review approval criteria with approval granted based on other similar situations in the nearby vicinity, the slope of the site and the design of the garage. With approval requiring that the permit drawings substantially conform with the front elevation and site plan attached, the request meets the applicable criteria and should be approved.

Staff note: Based on the proposed location of the rooftop terrace on top of the garage and outside of the front and side setbacks, the location of the terrace is allowed by right and not subject to this land use review.

ADMINISTRATIVE DECISION

In order to construct a detached single-car garage, approval of three Adjustments to 33.110.220.B and 33.110.253.F.3 to

- decrease the front setback from 10 feet to 5 feet;
- decrease the garage entrance setback from 18 feet to 5 feet; and
- allow the detached garage to be approximately 26 feet in front of the longest street-facing wall of the dwelling unit,

per the approved site plans, Exhibits C-1 through C-2, signed and dated July 9, 2008, subject to the following condition:

A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-130534 AD."

Decision rendered by: _____ on July 9, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: July 11, 2008

Staff Planner: Matt Wickstrom

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on May 20, 2008, and was determined to be complete on June 10, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on May 20, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on July 25, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at

least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after July 28, 2008 (the day following the last day to appeal).
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034 For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

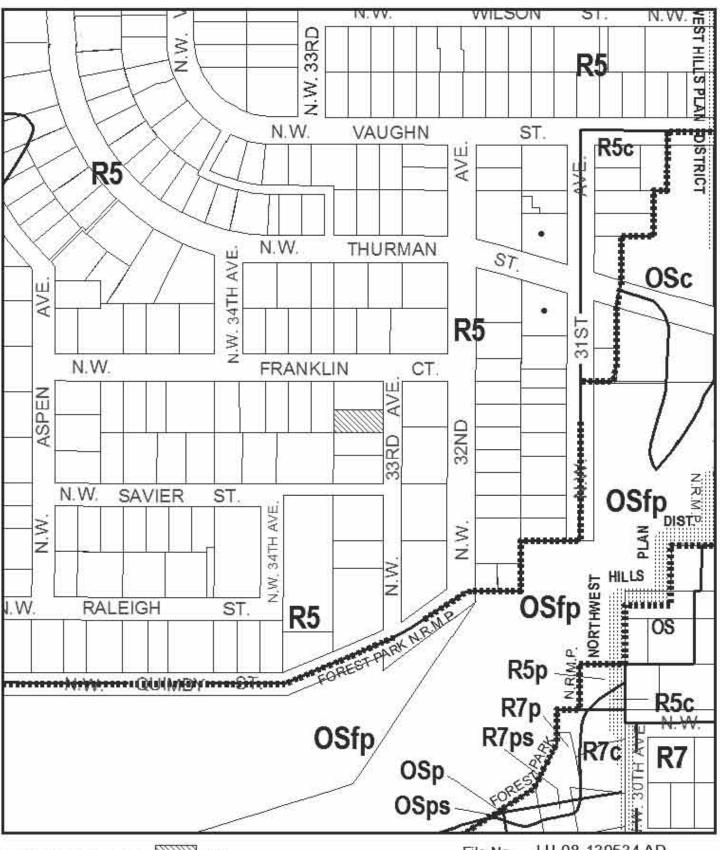
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Front Elevation Drawing (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Review Section of BDS
 - 3. Development Review Section of Portland Transportation
 - 4. Summary sheet of Bureau responses
- F. Correspondence: None received
- G. Other: Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING Site



Historic Landmark



This site lies within the: NORTHWEST HILLS PLAN DISTRICT

LU 08-130534 AD File No. 2825 1/4 Section 1 inch = 200 feet Scale 1N1E29CD 12000 State Id В (May 23,2008) Exhibit

